they have under the arrangement, they have no property, is absurd." The essence of rights *in rem* is generality of claim against all the world; that of rights *in personam* is restriction of claim to a definite promisor. In the early days of uses the cestui's rights were purely *in personam*. However, they gradually expanded under the protection of the courts of chancery until in chronological succession the cestui acquired rights against purchasers with notice, the heirs of the trustee, the dower rights of the trustee's wife, and the trustee's creditors. This development would, without doubt, have gone on more rapidly, and would have been carried still further, had it not been for Lord Coke's jealousy for the common law and his antagonism to any extension of the powers of the courts of chancery. In his own words, "a use is only a trust or confidence reposed in some other which is not issuing out of the land but is a thing collateral, annexed in privity to the estate of the land and to the person touching the land. It is neither a *jus in re* nor a *jus ad rem*." Both courts and text-writers have submitted to a greater or less extent to his legalistic reasoning, and even at the present day certain doctrines of trust law are predicated upon it. For instance, if the trustee is barred by the Statute of Limitations from an action against one who interferes with the trust estate, the cestui is likewise barred, even though he be under a disability which would ordinarily toll the statute in his favor. *Lewellin* v. *Mackworth*, 2 Eq. Cas. Abr. 579; *Wych* v. *East India Co.*, 3 P. Wms. 309. If he were regarded as having an interest *in rem* in the trust estate, the statute would not bar his remedy. Again, the cestui has no direct remedy against the disseisor or converter of the trust estate. He must proceed in equity to compel the trustee to take the necessary action. *Hall* v. *Waterman*, 220 Ill. 569. But the present tendency of the law is clearly toward recognizing the cestui's right as a composite of *in personam* rights against the trustee and *in rem* rights against all the world. See HUSTON, ENFORCEMENT OF DECREES IN EQUITY, Ch. 6, and 17 COL. L. R. 269 for thorough discussions of the subject. The principal case and others of its kind are good illustrations of the modern trend of thought and of its application in trust law.

TRUSTS—PAROL TRUST IN LANDS—STATUTE OF FRAUDS—SUBSEQUENT ADMISSIONS IN COURT BY TRUSTEE.—The defendant was the grantee of lands by a deed absolute upon its face. The wife of the deceased grantor and the guardian of his minor son brought a petition to have the deed set aside on the ground that it was induced by the fraudulent representation that the conveyance was necessary to save the property. The defendant's answer denied the fraud and claimed absolute title in fee to the property. In open court, however, the defendant stated, and her position was explained and endorsed by her attorney, that she did not claim the property for herself, but held it in trust for the wife and child of the grantor, and asked that a trustee be appointed to carry out the trust. *Held*, that a trustee should be appointed to enforce the trust according to the defendant's evidence. *Brender* v. *Stratton* (Mich., 1921), 184 N. W. 486.

It has been regarded as objectionable that the grantee should be permitted to establish a trust in the same action in which the petitioner seeks to set

aside the deed on the ground of fraud. In such a case it has been held that the verified answer of the defendant is insufficient, although the court said it would be sufficient in case the action were to establish the trust. *Hutchinson* v. *Tindall,* 3 N. J. Eq. 357. In that case, however, there was no evidence to support the answer and the court refused to accept an answer in avoidance as evidence in defendant's favor. In *Brender* v. *Stratton, supra,* the defendant's testimony was clear and convincing. The court was satisfied that the land was conveyed upon trust. If the Statute of Frauds were satisfied, therefore, there was no difficulty in making out the trust. The writing to satisfy the Statute of Frauds need not contain "all the terms of the trust." 17 MICH. L. REV. 266. A subsequent writing satisfies the statute, since an oral trust in lands is not illegal. 13 HARV. L. REV. 608; BOGERT ON TRUSTS (1921), 61. Many of the forms which such declarations may take are stated in PERRY ON TRUSTS (Ed. 6), Sec. 82. A verified answer in chancery by the trustee is sufficient. *Schumacher* v. *Draeger,* 137 Wis. 618; *Barron* v. *Barron,* 24 Vt. 375. A guardian's report is also sufficient. *Snyder* v. *Snyder,* 280 Ill. 467. No case has been found where the testimony of a guarantee was permitted to set up an enforceable trust; and it has been held that such testimony reduced to writing does not satisfy the statute. *Hasshagen* v. *Hasshagen,* 80 Cal. 514. However, pleadings signed by counsel are held to constitute a sufficient memorandum. 19 MICH. L. REV. 752. In the principal case the court emphasized the fact that there was more than the oral testimony of the defendant under oath. The defendant's attorney called the attention of the court to the nature of her claim, although there were no formal pleadings filed. The decision seems sound, as the disclosures made in formal court proceedings supply an equivalent of the solemnity contemplated by the Statute of Frauds.

WILLS—RIGHT OF ACTION AS AN ESTATE ON WHICH TO BASE JURISDICTION TO GRANT LETTERS OF ADMINISTRATION.—Decedent, at the time of his death, was a resident of Michigan. He suffered injury from the D railroad in Indiana and the injury resulted in his death. An administrator was appointed in Indiana for the sole purpose of prosecuting a claim for damages. *Held,* a claim for damages for causing the death of a party is not assets within the meaning of the statute authorizing the granting of letters of administration in this state. *Tri-State Loan and Trust Co.* v. *Lake Shore & M. S. Ry. Co.* (Ind., 1921), 131 N. E. 523.

The usual code provision is that an administrator for a non-resident may be appointed only in the county where he leaves assets. At common law, a cause of action for an injury to the person dies with the party injured. To determine whether a right of action for causing death is an asset of the intestate on which to base jurisdiction to grant letters of administration, the particular statute giving the right should control. If the statute continues the cause of action for the injury to the deceased in favor of his personal representative, or on account of the death gives a new cause of action for the benefit of the intestate's estate, the cases agree that this is an asset of the *intestate's* estate. A recent case so holding is that of *St. Louis S.*